

House Bill 1812

By: Representative Floyd of the 132<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 40-3-56 of the Official Code of Georgia Annotated, relating to the satisfaction of security interests and liens on motor vehicles, so as to provide a penalty for the failure to provide a cancellation or release of the security interest in a timely manner; to provide for related matters; to provide for an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 40-3-56 of the Official Code of Georgia Annotated, relating to the satisfaction of security interests and liens on motor vehicles, is amended by striking subsection (a) and substituting the following in place thereof:

"(a)(1) If any security interest or lien listed on a certificate of title is satisfied, the holder thereof shall, within ~~ten~~ 15 days after written demand sent by certified mail or statutory overnight delivery, return receipt requested, execute a release in the form the commissioner prescribes and mail or deliver the release to the owner, provided that as an alternative to a handwritten signature, the commissioner may authorize use of a digital signature as long as appropriate security measures are implemented which assure security and verification of the digital signature process, in accordance with regulations promulgated by the commissioner. For the purposes of the release of a security interest or lien the 'holder' of the lien or security interest is the parent bank or other lending institution and any branch or office of the parent institution may execute such release.

(2) If the commissioner has entered into an agreement with such a security interest holder or lienholder to provide a means of delivery by secure electronic measures of a notice of the recording of such security interest or lien, at such time as the security interest or lien is released, by secure electronic measures, the certificate of title may be printed and mailed or delivered to the next lienholder or security interest holder or, if

1 there is no other security interest holder or lienholder, to the owner without payment of  
2 any fee provided by Code Section 40-3-38.

3 (3) Upon the failure of the holder of the security interest or lien to properly transmit, in  
4 accordance with the provisions of paragraph (1) of this subsection, a legally sufficient  
5 satisfaction or cancellation or release, the owner or purchaser may send a written demand  
6 by certified mail or statutory overnight delivery, return receipt requested, for the penalty  
7 or damages, or both, that are authorized by this paragraph. Absent such written demand,  
8 the holder shall not be held liable under the provisions of this paragraph. If the holder of  
9 the security interest or lien fails to properly transmit a legally sufficient satisfaction or  
10 cancellation or release, within ten days of the receipt of the demand for penalty or  
11 damages, or both, the holder shall be liable to the owner or purchaser of the motor vehicle  
12 who satisfied the security interest or lien on the motor vehicle in the amount of \$500.00.  
13 In addition thereto, the holder of the security interest or lien shall be liable to the owner  
14 or purchaser of the motor vehicle for any damages caused by the failure to properly  
15 transmit a legally sufficient satisfaction or cancellation or release plus reasonable  
16 attorney's fees."

## 17 SECTION 2.

18 This Act shall become effective on July 1, 2005, and shall only apply to transactions  
19 occurring on or after that date.

## 20 SECTION 3.

21 All laws and parts of laws in conflict with this Act are repealed.